

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

Francesca Tuoni,  
Plaintiff,

v.

Case No. 1:16-cv-1291

Metropolitan Property and Casualty  
Insurance Company,  
dba MetLife Auto & Home  
Defendant.

**NOTICE OF REMOVAL TO THE  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

COMES NOW Defendant, Metropolitan Direct Property and Casualty Company, improperly named as Metropolitan Property and Casualty Insurance Company, dba MetLife Auto & Home (“Defendant”), by and through its attorneys of record, Butt Thornton & Baehr PC (James H. Johansen and Amy E. Headrick), and hereby files its Notice of Removal, pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1441, from the Second Judicial District Court of Bernalillo County, State of New Mexico, to the United States District Court for the District of New Mexico on the following grounds:

1. Plaintiff filed this civil action against Defendant in the Second Judicial District Court, County of Bernalillo, State of New Mexico, Case No. D-202-CV-2016-06414. Pursuant to D.N.M. LR-CIV 81.1, a copy of the Amended Complaint, along with copies of all records and proceedings are attached hereto as **Exhibit A**.

2. According to the Amended Complaint, filed October 17, 2016, Plaintiff is a citizen and resident of the County of Bernalillo, State of New Mexico. [Complaint at ¶ 2].

3. Metropolitan Direct Property and Casualty Insurance Company is a personal lines property and casualty insurance company and is the entity that issued the insurance policy relevant in this matter. Thus, Metropolitan Direct Property and Casualty Insurance Company is the proper Defendant in this matter.

4. Metropolitan Direct Property and Casualty Insurance Company is a foreign corporation, incorporated in the state of Rhode Island with its principal place of business in the state of Rhode Island, thus Metropolitan Direct Property and Casualty Insurance Company is a citizen of the state of Rhode Island for the purposes of diversity citizenship under 28 U.S.C. § 1332.

5. Metropolitan Property and Casualty Insurance Company, which is not a properly named Defendant in this matter, is a foreign corporation, incorporated in the state of Rhode Island with its principal place of business in the state of Rhode Island, thus Metropolitan Property and Casualty Insurance Company is a citizen of the state of Rhode Island for purposes of diversity of citizenship under 28 U.S.C § 1332.

6. Complete diversity of citizenship exists between Plaintiff and Defendant.

7. The Amended Complaint alleges four counts against Defendant, including (1) declaratory judgment regarding underinsured motorist benefits coverage; (2) breach of contract; (3) bad faith; and (4) unfair insurance claims practices. [Amended Complaint at ¶¶12-39].

8. Plaintiff offered to settle all claims in this case for \$400,000.00 on July 18, 2016, attached hereto as **Exhibit B**.

9. Although Defendant does not admit Plaintiff has been damaged in any amount as the result of the actions of Defendant, the amount in controversy of Plaintiff's claim as indicated

by her offer of settlement exceeds \$75,000.00. Therefore, the amount in controversy requirement of this Court is satisfied.

10. Plaintiff's Complaint is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. §1332 and which is removable by Defendant under the provisions of 28 U.S.C. §1441 in that:

a. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs; and

b. The matter in controversy is between citizens of different states.

11. This Notice of Removal was filed with this Court within thirty (30) days after Defendant was served with Plaintiff's Amended Complaint.

12. Defendant, immediately upon the filing of this original Notice of Removal, gave written notice of the filing as required by 28 U.S.C. §1446 (D) and filed a copy thereof with the Clerk of the Second Judicial District Court, County of Bernalillo, State of New Mexico, the Court from which this action is removed.

13. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

WHEREFORE, Defendant Metropolitan Direct Property and Casualty Insurance Company requests that the above-entitled action remain in this United States District Court for the District of New Mexico.

Respectfully Submitted,

BUTT THORNTON & BAEHR PC

/s/ James H. Johansen

James H. Johansen

Amy E. Headrick

*Attorneys for Defendant, Metropolitan  
Direct Property and Casualty Insurance  
Company*

P.O. Box 3170

Albuquerque, NM 87190-3170

Telephone: (505) 884-0777

I hereby certify that on the 23<sup>rd</sup> day of November 2016, I filed the foregoing electronically through the CM/ECF system, which caused the following counsel to be served by e-mail; and electronic means, as more fully reflected on the Notice of Electronic filing:

John Tiwald, Esq.

John Tiwald, PC

6121 Indian School Rd. NE, #210

Albuquerque, NM 87110

(505) 833-4133

[john@tiwaldlaw.com](mailto:john@tiwaldlaw.com)

/s/ James H. Johansen

James H. Johansen